

**Thomas Jefferson to Congress, December 6, 1805 ,
from The Works of Thomas Jefferson in Twelve
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Leicester Ford.**

CONFIDENTIAL MESSAGE ON SPAIN¹ J. MSS.

1 Transmitted to Congress with the following letter:

“ Sir,—In order to give to Congress the details necessary for their full:information of the state of things between Spain & the U. S. I send them the communication & documents now enclosed. Although stated to be confidential, that term is not meant to be extended to all the documents; the greater part of which are proper for the public eye. It is applied only to the message itself, & to the letters from our own & foreign ministers, which, if disclosed, might throw additional difficulties in the way of accommodation These alone, therefore, are delivered to the legislature in confidence that they will be kept secret.

“Dec. 6th, 1805.”

A paper in Jefferson's handwriting, entitled “Notes for Message,” follows:

“File Dec. 2, 1805.

“As we omit in the 2d message to enumerate the aggressions of Spain & refer for them to the documents, we must furnish the documents for every Act, particularly

“1. The capture of the *Huntress*.

“2. The carrying our gun boats into Algerinas,

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"5—3. The late depredations on our commerce in Europe. Extracts from Pinckney's letters.

"5—4. Oppressions on our commerce at Mobile.

"5—5. Delays in the evacuation of N. Orleans.

"5—6. Dissemination of rumours of the probable restoration of Louisiana to Spain.

"7. The new post taken on the bay of St. Bernard.

"8. The reinforcement of Nacogdoches.

"9. The robbery near Apelousa.

"10. That at Bayou Pierre.

"11. The Pattroles established on this side Sabine.

"5—12. The aggression on the Missisipi territory in the case of the Kempers.

"5—13. The subsequent one in the case of Flanagan and his wife.

"5—14. The negociation at Madrid.

"No. 1. 2. from the Navy department.

"7. 8. 9. 10. 11. from the War office.

"4. 5. 6. from the offices both of War and State.

"3. 12. 13. 14. from the office of State.

[Endorsed]: "President's list of documents for 1st session of Congress of 1805."

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On the subject of Spain, Jefferson drew up the following paper for cabinet consideration:

For consideration and correction. Th. J.

“1. Resolved, that no armed men, not being citizens of the United States ought to be permitted to enter or remain, nor any authority to be exercised but under the laws of the United States, within the former colony or province of Louisiana in the extent in which it was in the hands of Spain.

“2. Resolved, that as to the residue of the said ‘former colony or province of Louisiana, in the extent it had when France possessed it,’ a peaceable adjustment of that extent is most reasonable and desirable, so far as it can be effected consistently with the honor of the United States.

“3. Resolved, that pending measures for such peaceable adjustment, neither party ought to take new posts therein, nor to strengthen those they held before the 1st day of October, 1800, and, that any proceeding to the contrary on the part of Spain ought to be opposed by force, and by taking possession of such posts as may be necessary to maintain the rights of the United States.

“4. Resolved, that the subjects of Spain still on the Mississippi and its waters ought to be allowed an innocent passage, free from all imposts, along that part of the river which passes through the territory of the United States. And the citizens of the United States on the Mobile and its waters ought to be allowed an innocent passage, free from all imposts, along that part of the river below them which passes through the territory still held by Spain, but claimed by both parties;

“Or that imposts should be levied for and by the United States on the navigation of the Mississippi by Spanish subjects, countervailing those which may be levied for and by Spain on the navigation of the Mobile by citizens of the United States.

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“And that the navigation of the Mississippi by Spanish subjects should be prohibited whensoever that of the Mobile by citizens of the United States shall be prohibited.

“5. Resolved, that in support of these resolutions, and of the consequences which may proceed from them, the citizens of the United States, by their Senate and Representatives in Congress assembled, do pledge their lives and fortunes; and that the execution of these resolutions be vested with the President of the United States.

“6. Resolved, that for carrying these resolutions into effect, whether amicably or by the use of force, the President be authorized to apply any moneys in the Treasury of the United States not otherwise appropriated.

“7. Resolved, that the President of the United States ought to be authorized by law to employ the armed vessels of the United States which may be in commission, for restraining the irregularities and oppressions of our commerce, other than those which amount to piracy, by privateers cruising within the Gulf Stream, in the Gulf itself, or among the islands bordering on it, and that a bill be brought in for that purpose.”

After consideration, he sent a revision to Gallatin, with the following letter:

“December 4, 1805.

“Th. J. to Mr. Gallatin.

“Enclosed is a revised edition of the Spanish resolutions, in which you will find most of your ideas conformed to. That respecting money is omitted; that it may be provided in the way you suggest. In the message, also, I have adopted all your amendments except the last, which respected merely the arrangement of the phrases, and could not be satisfactorily altered.”

The enclosure was:

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"1. Resolved by the Senate and House of Representatives of the United States, that the indemnities for which Spain is answerable to citizens of the United States for spoliation and wrongs committed in violation of the law of nations or of treaty, are objects too just and important not to be pursued to effect by the United States.

"2. Resolved, that no armed men, subjects of any foreign power, ought to be permitted to enter or remain, nor any authority but of the United States to be exercised, within the former colony or province of Louisiana, in the extent in which it was delivered by Spain under the Treaty of St. Ildefonso.

"3. Resolved that as to the residue of the said former colony or province of Louisiana, and provisions necessary to avoid future collisions and controversies, an equitable adjustment is most reasonable.

"4. Resolved, that pending any measures for such adjustment neither party ought to take new posts therein, nor to strengthen those they held before the 1st day of October, 1800, and that any proceeding to the contrary on the part of Spain ought to be opposed by force, and by taking possession of such posts as may be necessary to maintain the rights of the United States.

"5. Resolved &c., that the subjects of Spain still on the Mississippi and its waters ought to be allowed an innocent passage, free from all imposts, along that part of the river below them which passes through the territory of the United States and the citizens of the United States on the Mobile and its waters ought to be allowed an innocent passage, free from all imposts along that part of the river below them which passes through the territory still held by Spain, but claimed by both parties.

"6. Resolved, that a copy of these resolutions be presented to the President of the United States for his approbation, with an assurance that he will receive from the Legislature the support necessary for carrying them into execution."

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Still later, on this matter, he wrote to Gallatin:

“Saturday, December 7, 1805.

“J. Randolph has just called to ask a conversation with me, for which purpose he will be with me tomorrow morning; everything therefore had better be suspended till that is over.”

Dec. 6, 1805.

To the Senate & House of Representatives of the U. S.:

The depredations which had been committed on the commerce of the U. S. during a preceding war, by persons under the authority of Spain, are sufficiently known to all. These made it a duty to require from that government indemnifications for our injured citizens. A convention was accordingly entered into between the minister of the U. S. at Madrid & the minister of that government for foreign affairs, by which it was agreed that spoiliations committed by Spanish subjects & carried into ports of Spain should be paid for by that nation; & that those committed by French subjects, & carried into Spanish ports should remain for further discussion. Before this Convention was returned to Spain with our ratification, the transfer of Louisiana by France to the U. S. took place, an event as unexpected as disagreeable to Spain. From that moment she seemed to change her conduct & dispositions towards us. It was first manifested by her protest against the right of France to alienate Louisiana to us, which however was soon retracted, and the right confirmed. Then high offence was manifested at the act of Congress establishing a collection district on the Mobile, altho' by an authentic declaration immediately made, it was expressly confined to our acknowledged limits. And she now refused to ratify the Convention signed by her own minister under the eye of his sovereign, unless we would relinquish all consent to alterations of it's terms which would have affected our claims against her for the spoiliations by French subjects carried into Spanish ports.

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To obtain justice, as well as to restore friendship, I thought a special mission advisable, & accordingly appointed James Monroe, Minister Extraordinary & Plenipotentiary, to repair to Madrid, & in conjunction with our minister resident there, to endeavour to procure a ratification of the former Convention, & to come to an understanding with Spain as to the boundaries of Louisiana. It appeared at once that her policy was to reserve herself for events, & in the meantime to avoid all explanations and engagements

to keep our differences in an undetermined state. This will be evident from the papers now communicated to you. After yielding to their delays until their object could not longer be doubted nearly five months of fruitless endeavor to bring them to some definite accommodation and satisfactory result our ministers ended the conferences, without having been able to obtain indemnity for spoliations of any description, or any satisfaction as to the boundaries of Louisiana, other than a declaration on their part that we had no rights Eastward of the Iberville, and that our line to the west was one which would have left us but a string of land on that bank of the river Mississippi. Our injured citizens were thus left without any prospect of retribution from the wrong-doer; & as to the boundary each party was to take its own course. That which they have chosen to pursue will appear from the documents now communicated. They authorize the inference that it is their intention to advance on our possessions until they shall be repressed by an opposing force. Considering that Congress alone is constitutionally invested with the power of changing our condition from peace to war, I have thought it my duty to await their authority for using force in any degree which could be avoided. I have barely instructed the officers stationed in the neighborhood of the aggressions to protect our citizens from violence, to patrol within the borders actually delivered to us, & not to go out of them but when necessary to repel an inroad, or to rescue a citizen or his property. And the Spanish officers remaining at New Orleans are required to depart without further delay. It ought to be noted here that since the late change in the state of affairs in Europe, Spain has ordered her cruisers & courts to respect our treaty with her.

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The conduct of France, & the part she may take in the misunderstandings between the U. S. & Spain, are too important to be unconsidered. She was prompt and decided in her declarations that our demands on Spain for French spoliations carried into Spanish ports, were included in the settlement between the U. S. and France. She took at once the ground that she had acquired no right from Spain & had meant to deliver us none, Eastward of the Iberville: her silence as to

the Western boundary leaving us to infer her opinion in favor of our claims to the Rio Bravo; & we know that her commissary had orders to require possession to that river might be against Spain in that quarter. Whatever direction she might mean to give to these differences, it does not appear that is sufficient reason to believe I am satisfied she has not contemplated their proceeding to actual rupture, or that, at the date of our last advises from Paris, her government had any suspicion of a hostile attitude Spain had taken here. On the contrary we are without a doubt have reason to believe that she was disposed to effect a settlement on a plan analogous to what our ministers had proposed, & so comprehensive as to remove as far as possible the grounds of future misunderstanding collision & controversy on the Eastern as well as Western side of the Mississippi.

The present crisis in Europe is favorable for pressing such a settlement: & not a moment should be lost in availing ourselves of it. Should it pass unimproved, our situation would become much more difficult. Formal war is not necessary. It is not probable it will follow. But the protection of our citizens, the spirit and honor of our country, require that force should be interposed to a certain degree. It will probably contribute to advance the object of peace.

But the course to be pursued will require the command of means which it belongs to Congress exclusively to yield or to deny. To them I communicate every fact material for their information, & the documents necessary to enable them to judge for themselves. To

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their Wisdom then I look for the course I am to take, and will pursue with sincere zeal that which they shall approve.